

United States District Court  
for the  
Western District of New York



United States of America

v.

PAUL E. DAVIS

*Defendant*

Case No. 13-MJ- 4010

**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of February 6, 2013 in the county of Monroe in the Western District of New York, the defendant committed an offense described as follows: knowingly, willfully and intentionally possessing a firearm by a convicted felon in violation of Title 18, United States Code, Section 922(g)(1).

**SEE ATTACHED AFFIDAVIT OF SPECIAL AGENT THOMAS J. SHELTON.**

This criminal complaint is based on these facts:

X Continued on the attached sheet.

*Complainant's signature*

**S/A THOMAS J. SHELTON, ATF**

*Printed name and title*

Sworn to before me and signed in my presence.

Date: February 6, 2013

*Judge's signature*

City and State: ROCHESTER, NEW YORK

**HON. MARIAN W. PAYSON, U.S.M.J.**

*Printed name and title*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

13-MJ- 4010

v-

AFFIDAVIT

Paul E. DAVIS,  
Defendant.

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STATE OF NEW YORK     )  
COUNTY OF Monroe     ) SS:  
CITY OF Rochester     )

I, Thomas J Shelton, affirm to the following facts:

1. I am a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms, & Explosives (hereinafter designated as ATF), and am assigned to the Rochester, New York, Field Office. Your affiant is a graduate of the Criminal Investigator Training Program and the ATF National Academy, both located at the Federal Law Enforcement Training Center in Glynco, Georgia. Your affiant has been employed as an ATF Special Agent for approximately twelve years. Prior to becoming an ATF Special Agent, your affiant completed the United States Border Patrol Academy and served as a U.S. Border Patrol Agent for approximately four years. Prior to becoming a U.S. Border Patrol Agent, your affiant graduated from the Rochester Institute of Technology, with a Bachelors Degree in Criminal Justice. Your affiant has received extensive training in both formal settings and on the job settings

in conjunction with firearm and narcotics related investigations. Further your affiant has received training with respect to the provisions of the Federal Firearms and Narcotics Laws administered under Title 18, Title 21 and Title 26 of the United States Code.

### PURPOSE OF AFFIDAVIT

2. This affidavit is submitted in support of a criminal complaint against Paul E. DAVIS for violations of Title 18, United States Code, Section 922(g)(1) (felon in possession of a firearm). The assertions made herein are based solely upon the personal knowledge of your affiant or upon information I have received from this investigation, including various police reports produced in relation to the investigation and/or arrest of DAVIS, all of which are true and correct to the best of my knowledge and belief. Further, I have had discussions with other law enforcement agents and officers who have confirmed the accuracy of the information contained within this affidavit.

### CRIMINAL HISTORY OF PAUL E. DAVIS

3. According to his criminal history report, Paul E. DAVIS has two prior felony convictions. On April 4, 1986, DAVIS was convicted in Monroe County Court, Rochester, New York, of Attempted Robbery in the Second Degree, a class D felony, for which he was

sentenced to 6 months incarceration and 5 years probation. On April 21, 1987, DAVIS was convicted of Attempted Assault in the Second Degree, a class E felony, for which he was sentenced to 1½-3 years incarceration. I am aware of nothing demonstrating that DAVIS's right to possess a firearm has been restored.

### ARREST OF PAUL E. DAVIS

4. On several occasions, I have interviewed a confidential source (CS) with knowledge about Paul DAVIS' firearm trafficking activity. The CS, who has a prior felony conviction, has pled guilty in U.S. District Court for the Western District of New York to conspiracy to possess with intent to distribute, and to distribute, 280 grams or more of cocaine base and is cooperating pursuant to a plea agreement containing a cooperation provision. The information provided by the CS has been corroborated by other independent sources of information, including surveillance, database record checks, other confidential sources, and the seizure of firearms made through recorded and controlled purchases of firearms by the CS. Accordingly, I believe the CS's information to be accurate and reliable.

5. On **February 6, 2013**, while in the presence of your affiant, the CS made a recorded telephone call with DAVIS at (585) 880-5687. During the conversation, DAVIS and the CS spoke in code

concerning firearms. DAVIS stated that he had a "nine", a "forty", a "three eighty", a "nine tec with thirty two rounds", a "ten millimeter", a "couple of bull dogs a thirty eight, they revolvers." At approximately 4:45 pm, the CS traveled to 1597 West Ridge Road, Rochester, New York and met with DAVIS inside of the location. During this monitored and recorded meeting, DAVIS displayed approximately ten (10) firearms to the CS and offered to sell them to the CS. The CS purchased one (1) Taurus International .40 caliber pistol bearing serial number SCU76800 and fifty (50) rounds of .40 caliber ammunition in exchange for \$1,000. The CS then departed 1597 West Ridge Road and met with law enforcement to turn over custody of the firearm and ammunition the CS had just purchased from DAVIS.

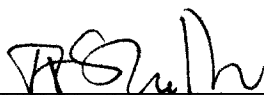
7. After the CS departed 1597 West Ridge Road, agents and officers maintained surveillance on the location. DAVIS was taken into custody at approximately 5:57 pm as he exited the location.

### **INTERSTATE NEXUS**

8. ATF Special Agent Ryan Szwejbka, an expert who has testified in federal court regarding the origin of manufacture for firearm, reviewed a description of the seized firearm. Based on that description, he determined that the firearm was not manufactured in the State of New York.


CONCLUSION

6. Based on the above information, your affiant submits there is probable cause to believe that on February 6, 2013, in the City of Rochester, County of Monroe, Western Judicial District of New York, Paul E. DAVIS violated Title 18, United States Code, Section 922(g)(1) (felon in possession of a firearm).



Thomas J. Shelton  
Special Agent  
Bureau of Alcohol, Tobacco,  
Firearms, and Explosives

Sworn to and subscribed to  
before me this 6 day of  
February, 2013 at Rochester, New York.



HONORABLE MARIAN W. PAYSON  
United States Magistrate Judge